**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE ANTONY DOMINIC**

**FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929**

**WP(C).No. 23729 of 2007(Y)**
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**PETITIONER:**
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**C.SOBHANA KUMARY, SECTION OFFICER,**
**PERSONNEL AND ADMINISTRATION(AR14)DEPARTMENT,**
**GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

**BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR**
**SRI.PIRAPPANCODE V.S.SUDHIR**

**RESPONDENTS:**
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**1. STATE OF KERALA, REPRESENTED BY ITS**
**CHIEF SECRETARY, SECRETARIAT,**
**THIRUVANANTHAPURAM.**

**2. THE SECRETARY TO GOVERNMENT,**
**GENERAL ADMINISTRATION(SERVICES)DEPARTMENT,**
**SECRETARIAT, THIRUVANANTHAPURAM.**

**3. V.K.BAHULEYAN, SECTION OFFICER,**
**GENERAL ADMINISTRATION(SERVICES)DEPARTMENT,**
**SECRETARIAT, THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SRI.BIJOY CHANDRAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ANTONY DOMINIC, J.**
**==========**
**W.P.(C) NO. 23729 OF 2007**
**==========**

**Dated this the 3rd day of August, 2007**

**J U D G M E N T**

The grievance of the petitioner is that the benefit of Rule 13 A(i)(a) of Kerala State and Subordinate Service Rules, available to the members of Scheduled Caste and Scheduled Tribes has been denied to her and on that basis petitioner seeks a direction to respondents 1 and 2 to grant the benefit of the said rule with all consequential benefits including promotion to various posts with retrospective effect on the basis of her original seniority as on 2.5.1988. There is a further prayer to direct the first respondent to pass orders on Ext.P13 representation dated 28/5/07, which is addressed to the Chief Minister of the State.

2. On going through the pleadings, it is seen that the benefit claimed by the petitioner, if at all has been denied, such denial has occurred as early as on 31/12/91, when the third respondent, who according to the petitioner is junior to her, was promoted to the category of Assistant Grade I overlooking the claims of the petitioner. I also notice that representations were

filed by the petitioner claiming these benefits only on 12/7/04 and 12/8/04 and these representations are also placed on record as Exts. P4 and P6. The subsequent instances when the petitioner lost the promotions in time were all consequent to the promotion that was given to the third respondent on 31/12/91.

3. Thus in effect, what is now sought for is a review of the promotion that has taken place on 31/12/91, which in my view is highly belated as the petitioner is guilty of delay and latches. This itself dis entitles the petitioner for the discretionary remedy under Article 226 of the Constitution of India. Petitioner makes reference to Ext.P7 and P12, which are Government orders. It is stated that inspite of delay, benefits have been given to similarly situated persons. Even if Government have passed such wrong orders, that cannot be a precedent as far as this Court is concerned and no right can be asserted on that basis. In so far as Ext.P14 is concerned, true this court has held that if there is some delay in the candidates belonging to Scheduled Castes and Scheduled Tribes asserting their rights, the same should not be pressed into service as a ground to reject their claim. I am quite certain that this Court would not have laid down the above as a

general proposition of law, which could be made use of in all cases. Further the extend of delay in that case is not discernible from Ext.P14.

In this case, I found that there is inordinate delay of about 16 years and for that reason itself, I am not inclined to entertain this writ petition or direct any of the respondents to pass orders on Ext.P13. I do not find any merit in the writ petition and it stands dismissed.

**ANTONY DOMINIC, JUDGE.**

Rp